

EXHIBIT 1

EXHIBIT 1

FILED
Electronically
CV18-02311
2019-01-29 10:19:03 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7090316 : csulezic

1 1005
2 R. Shawn Oliphant, Esq.
3 Nevada Bar No. 6441
FAHRENDORF, VILORIA,
OLIPHANT & OSTER L.L.P.
4 P.O. Box 62
Reno, Nevada 89504
5 (775) 284-8888
6 Attorneys Plaintiff

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE

9 PEGGY ANGLETON, an individual,

10 Plaintiff,

Case No: CV18-02311

11 vs.

Dept. No: 1

12 FCPT RESTAURANT PROPERTIES, LLC;
13 GMRI, INC. and DOES I-XX, ROE
14 CORPORATIONS I-XX, DOE ENGINEERING
15 COMPANIES I-XX, ROE CONSTRUCTION
COMPANIES I-XX, and DOE MANAGEMENT
FIRMS I-XX, inclusive,

ACCEPTANCE OF SERVICE

16 Defendants.

17 Service of a copy of the Summons and filed-stamped copy of the Amended Complaint in the
18 above entitled action is hereby acknowledged and accepted by the undersigned on behalf of
19 Defendant GMRI, INC., A Foreign Corporation, licensed in and conducting business in the County
20 of Washoe, State of Nevada.

21 AFFIRMATION

22 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
23 document does not contain the personal information of any person as defined in NRS 603A.040.

24 DATED this 21 day of January, 2019.

LEWIS BRISBOIS

25
26 By: Mary Ann Ellis
27 Mary-Ann S. Ellis
28 Attorneys for Defendants

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COUNSELORS AT LAW
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FILED
Electronically.
CV18-02311
2019-01-10 10:50:30 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 7061208 : covera

1 1090
2 R. Shawn Oliphant, Esq.
3 Nevada Bar No. 6441
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6

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE

9 PEGGY ANGLETON, an individual,

10 Plaintiff,

Case No: CV18-02311

11 vs.

Dept. No: 1

12 FCPT RESTAURANT PROPERTIES, LLC;
13 GMRI, INC. and DOES I-XX, ROE
14 CORPORATIONS I-XX, DOE ENGINEERING
COMPANIES I-XX, ROE CONSTRUCTION
COMPANIES I-XX, and DOE MANAGEMENT
15 FIRMS I-XX, inclusive,

AMENDED COMPLAINT

[exempt from arbitration pursuant to
possible award value in excess of \$50,000
and declaratory relief action]

16 Defendants.

17 COMES NOW, Plaintiff, PEGGY ANGLETON, by and through her attorneys of record,
18 FAHRENDORF, VILORIA, OLIPHANT & OSTER, L.L.P., and allege as follows:

19 I. PARTIES AND JURISDICTION

20 1. Plaintiff is, and at all relevant times herein was, a resident of the County of Washoe,
State of Nevada.

22 2. Plaintiff is a 65 year old female who has a disability in that she has a physical or
mental impairment that substantially limits one or more of her major life activities of the person, has
24 a record of such an impairment or is regarded as having such an impairment.

25 3. Plaintiff is informed and believes, and thereupon alleges, that Defendant, FCPT
26 RESTAURANT PROPERTIES, LLC, is a Foreign Limited Liability Company, licensed in and
27 conducting business in the County of Clark, State of Nevada.

28 // /

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1 4. Plaintiff is informed and believes, and thereupon alleges, that Defendant GMRI,
 2 INC., is a Foreign Corporation, licensed in and conducting business in the County of Washoe, State
 3 of Nevada as owners and doing business as Olive Garden located at 4900 S. Virginia St., Reno,
 4 Nevada 89502.

5 5. Pursuant to NRCP (10)(a) and *Nurenberger Hercules-Werke GMBH v. Virostek*, 107
 6 Nev. 873, 822 P.2d 1100 (1991), the true name and capacities of Defendants designated as DOES 1-
 7 10, whether individual, corporate, associate or otherwise are unknown to Plaintiff at this time and,
 8 therefore, Plaintiff sues said Defendants by fictitious names. Plaintiff is informed and believes and
 9 thereon alleges that each of the said DOE Defendants are responsible in some manner for the
 10 events and occurrences referenced herein and that said DOE Defendants are jointly and severally
 11 liable for the injuries and damages suffered by Plaintiff as alleged herein. Plaintiff will ask leave of
 12 the Court to amend her Complaint to substitute the true names and capacities of said DOE
 13 Defendants when Plaintiff becomes aware of the true names of said DOE Defendants.

14 6. Plaintiff is informed and believes, and upon such information and belief, alleges that
 15 each of the Defendants designated herein by such fictitious names are negligently responsible in
 16 some manner for the events and happenings herein referred to and negligently caused the injuries to
 17 Plaintiff as these Defendants were involved in the initiation, approval, support, maintenance or
 18 execution of the construction work and/or wrongful acts on the premises located at 4900 S. Virginia
 19 St., Reno, Nevada 89502 ("Property"), upon which this litigation is based. Plaintiff further alleges
 20 that each Defendant designated herein by such fictitious names are and at all times relevant hereto
 21 were, agents of each other and have ratified the acts of each other Defendant and acted within the
 22 course and scope of such agency and have the right to control the actions of the remaining
 23 Defendants.

24 7. At all times herein mentioned, Defendants, and each of them were the apparent
 25 ostensible principals, principals, apparent ostensible agents, agents, apparent ostensible servants,
 26 servants, apparent ostensible employees, employees, apparent ostensible assistants, assistants,
 27 apparent ostensible consultants and consultants of their co-Defendants, apparent and ostensible
 28 contractors and subcontractors, and were as such acting within the course, scope and authority of

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1 said agency and/or employment, and that each and every act of such Defendants, as aforesaid, when
2 acting as a principal agent, employee, assistant or consultant, were responsible in some manner for
3 the events and happenings herein referred to.

4 8. That the facts and circumstances that give rise to the subject lawsuit occurred in
5 Washoe County, Nevada, at the Property.

6 9. Plaintiff is informed and believes, that at all relevant times herein, Defendants
7 owned, leased, or operated a restaurant at the Property known as the Olive Garden ("Restaurant").

II. GENERAL FACTUAL ALLEGATIONS

9 9. On or about June 27, 2017, Plaintiff placed a to-go order from the Restaurant. After
0 picking up her food, Plaintiff was directed by an employee of the Restaurant to exit out of a side
1 door because the front entry was closed due to remodeling of the building. Plaintiff exited the side
2 door, as directed by Defendants, carrying her food, her purse and her portable oxygen, at which time
3 she tripped off the unmarked vertical ledge outside of the side door of the Restaurant breaking her
4 left foot, bumping her head hard, hitting her elbow, and breaking her glasses on the ground when
5 she landed.

6 10. After Plaintiff fell and was waiting for an ambulance, employees of Defendants
7 placed "caution tape" and "watch your step" signs around the unmarked vertical ledge where
8 Plaintiff fell.

FIRST CAUSE OF ACTION

(Negligence Per Se)

11. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

2 12. At all times material hereto, Defendants had a duty to design and construct, or make
3 alterations to the Restaurant that render it readily accessible to and usable by individuals with
4 disabilities in accordance with the Americans with Disability Act (“Act”) as determined by the ADA
5 Accessibility Guidelines and Standards for Accessible Design (“Guidelines”).

6 13. The City of Reno and Washoe County have adopted the International Building Code
7 ("Code"). .

28 | 111

1 14. The requirements of the Act, Guidelines and Code are referred to as the
2 "Requirements."

3 15. The Code incorporates the Requirements and/or the Requirements preempt and
4 supersede the Code.

5 16. At all times material hereto, Defendants owned, operated, and/or maintained the
6 Property and Restaurant in violation of the Requirements, including without limitation, the
7 following sections of the Guidelines: 303 Changes in Level, 303.1 General; 303.2 Vertical; 3.03.3
8 Beveled; and 303.4 Ramps.

9 17. The Requirements require that the maximum vertical changes in ground surfaces
10 may not exceed $\frac{1}{4}$ inch high. Changes in level between $\frac{1}{4}$ inch and $\frac{1}{2}$ inch high maximum shall be
11 beveled with a slope not steeper than 1:2. In no case may the combined change in level exceed $\frac{1}{2}$
12 inch. Changes in level exceeding $\frac{1}{2}$ inch must be ramped and comply with the curb ramp
13 requirements.

14 18. When Defendants shut down the front entrance to the Restaurant due to
15 construction, and directed Plaintiff to exit the side door, Defendants failed to provide an accessible
16 route which complied with the Requirements.

17 19. In fact, the route Defendants' employees directed Plaintiff to take was a $4\frac{1}{2}$ high
18 unramped and unmarked curb which did not comply with the Requirements.

19 20. A violation of the Requirements resulted in an injury to Plaintiff.

20 21. Plaintiff belongs to the class of persons that the Requirements were intended to
21 protect.

22 22. Plaintiff's injuries were the type of injuries the Requirements were intended to
23 protect against.

24 23. As a direct and proximate result of the carelessness, recklessness and negligence of
25 Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries,
26 causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

27 24. As a further direct and proximate result of the carelessness, recklessness and
28 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and

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FAHRENDORF,
VILLORIA,
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& OSTER, L.P.

1 medical bills, and will incur further medical bills in the future, in an amount that is presently
2 unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
3 become known.

4 . 25. As a further direct and proximate result of the carelessness, recklessness and
5 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
6 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
7 amend this Complaint to include such sums when the same become known.

8 . 26. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
9 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
10 reasonable attorney's fees and costs of suit as allowed by law and equity.

11 **SECOND CAUSE OF ACTION**

12 (Negligence)

13 . 27. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

14 . 28. That Defendants had a duty, by and through its agents, servants and employees to
15 exercise all due care and caution for the safety of persons, including Restaurant customers, such as
16 Plaintiff.

17 . 29. That the Defendants had a duty to exercise reasonable care not to subject others on
18 the Restaurant and Property to an unreasonable risk of harm.

19 . 30. That the Defendants had a duty to inspect the Restaurant and Property to discover
20 dangerous conditions not known to Plaintiff and to take reasonable precautions to protect
21 customers, such as Plaintiff, from dangers which are foreseeable from the use of the Restaurant and
22 Property.

23 . 31. That the Defendants had a duty to maintain safe conditions for customers, such as
24 Plaintiff, entering and exiting their Restaurant from the Property.

25 . 32. That Defendants had a duty to warn its customers, including Plaintiff, of any
26 dangerous or unsafe condition that existed and/or were present in the Restaurant and Property
27 when such conditions are hidden, latent, or concealed or of which the customers are without
28

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1 knowledge, if Defendants, through one of its employees, agents and/or servants creates or knows
 2 of, or in the exercise of reasonable care should have known of the dangerous or unsafe condition.

3 33. That on or about June 27, 2017, Defendants created and/or allowed a dangerous
 4 condition to exist and further negligently, willfully, or maliciously failed to guard, remedy, or warn
 5 Restaurant customers, including Plaintiff, against such dangerous condition not providing an
 6 accessible route for entry and exit of the Restaurant, which resulted in a hazard on the Property.

7 34. Plaintiff was on the Property of Defendants as a customer for the purposes of
 8 entering the Restaurant to pick up food she had ordered to go.

9 35. As a customer, Plaintiff was on the Property for the express benefit of Defendants.
 10 As a customer, Plaintiff relied on Defendants to keep the Restaurant and Property in a reasonably
 11 safe condition.

12 36. As a customer, Defendants owed a duty to Plaintiff to remedy or warn of risks
 13 known to or discoverable by and/or created by Defendants on the Property.

14 37. That Defendants breached its duties of care owed to Plaintiff and was negligent,
 15 careless and heedless in the operation, maintenance and management of the Restaurant and
 16 Property, including but not limited to, the following acts of negligence:

- 17 (a) Failing to provide a safe restaurant establishment for customers, and
 customers entering and existing Restaurant;
- 18 (b) Failing to warn customers of any dangerous conditions that existed and/or
 were present in the Property;
- 19 (c) Failing to properly hire and train their employees to inspect for dangerous
 and unsafe conditions and to take reasonable precautions to protect
 customers from dangers, which are foreseeable from the use of the Property;
- 20 (d) Failing to exercise reasonable care not to subject customers to an
 unreasonable risk of harm by not providing an accessible route for entry and
 exit of the Restaurant, which caused Plaintiff to fracture her left ankle and
 incur other injuries;

21 // /

(e) That the Defendants, by failing to exercise ordinary care, created the dangerous condition or created a reasonable probability that the dangerous condition would exist; and

(f) Defendants breached their duties of care owed to Plaintiff by not providing an accessible route for access of the Restaurant from the Property, is creating an unsafe condition, by failing to warn of the dangerous condition and/or by failing to remedy the dangerous condition.

38. At all times material hereto, Defendants knowingly maintained the Property in a dangerous and unsafe condition and knew or in the exercise of reasonable care should have known that it was endangering customers of the Restaurant.

11 39. Defendants' breach of the duty of care legally and proximately caused Plaintiff's
12 injuries.

40. In addition to the negligence per se of Defendants, an owner or occupier of land is held to the duty of reasonable care when another is injured on that land.

41. Defendants not only failed to provide an accessible route that met the Requirements, but the Defendants did not exercise reasonable care or keep the Property in a reasonable safe condition resulting in Plaintiff's injuries.

42. As a direct and proximate result of the carelessness, recklessness and negligence of Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries, causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

43. As a further direct and proximate result of the carelessness, recklessness and negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and medical bills, and will incur further medical bills in the future, in an amount that is presently unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same become known.

44. As a further direct and proximate result of the carelessness, recklessness and negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the

future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to amend this Complaint to include such sums when the same become known.

3 45. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
4 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
5 reasonable attorney's fees and costs of suit as allowed by law and equity.

THIRD CAUSE OF ACTION

(Unlawful Discrimination and Deprivation of Civil Rights)

46. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

47. The Restaurant is a place of public accommodation.

0 48. Plaintiff was entitled to the full and equal enjoyment of the goods, services, facilities,
1 privileges, advantages and accommodations of the Restaurant without discrimination on the ground
2 of her disability.

3 49. Defendants deprived Plaintiff from the full and equal enjoyment of the goods,
4 services, facilities, privileges, advantages and accommodations of the Restaurant by failing to provide
5 a continuous and unobstructed way of egress from the Restaurant to the path leading away from the
6 Restaurant accessible routes into and from the Restaurant.

7 50. Plaintiff was injured as a result of Defendants' failure to provide a continuous and
8 unobstructed way of egress from the Restaurant to the path leading away from the Restaurant.

19 51. The failure to comply with the Requirements also constitutes unlawful discrimination
20 under the Act as a result of denial of access to public accommodation by the Defendants to the
21 Plaintiff.

22 52. The Requirements require two accessible exists from the Restaurant and Defendants
23 did not provide any accessible exits for the Restaurant during the remodel.

24 53. Defendants have failed to remove architectural barriers to persons with disabilities
25 where such removal is readily achievable, including without limitation, providing two accessible exits
26 from the Restaurant.

27 54. The Restaurant was altered in 2002, 2006 and 2018 ("Remodels").

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1 55. Permits to complete the Remodels were pulled from the applicable governing
2 permitting authorities.

3 56. The Remodels had a total value of \$350,000 or more.

4 57. The Requirements required that the Defendants apply up to 20% of the value of the
5 Remodels on improving the path of travel to and from the area that was altered.

6 58. Despite the Remodels, Defendants did not remove the architectural barriers to
7 persons with disabilities by providing two accessible exits from the Restaurant as required by the
8 Requirements.

9 59. Providing two accessible exits from the Restaurant could have been easily
10 accomplished without much difficulty or expense given the Defendants' size and abilities.

11 60. The failure to comply with the Requirements is an ongoing violation of the
12 Requirements.

13 61. The ongoing violations of the Requirements show a pattern or practice of
14 discrimination by Defendants.

15 62. Defendants are entitled to an order including permanent or temporary injunctions,
16 restraining orders, or other types of orders including removal of the architectural barriers referenced
17 herein.

18 63. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
19 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
20 reasonable attorney's fees and costs of suit as allowed by law and equity.

21 FOURTH CAUSE OF ACTION

22 (Negligent Hiring, Training and Supervision)

23 64. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

24 65. Defendants owed a duty to Plaintiff to exercise reasonable care in the hiring, training
25 and supervision of its employees.

26 66. Defendants further owed a duty to Plaintiff to properly train them for tasks they
27 would perform, and to ensure that safety measures were in place to protect its patrons.

28 ///

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1 67. Plaintiff is informed and believes, and on such basis alleges, that said Defendants
2 breached such duties.

68. As a direct and proximate result of the carelessness, recklessness and negligence of Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries, causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

6 69. As a further direct and proximate result of the carelessness, recklessness and
7 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and
8 medical bills, and will incur further medical bills in the future, in an amount that is presently
9 unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
0 become known.

1 70. As a further direct and proximate result of the carelessness, recklessness and
2 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
3 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
4 amend this Complaint to include such sums when the same become known.

71. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
reasonable attorney's fees and costs of suit as allowed by law and equity.

FIFTH CAUSE OF ACTION

(Respondeat Superior)

72. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

73. At all relevant times herein, Defendants and Employees DOES I-XX, ROE CORPORATIONS I-XX, DOE ENGINEERING COMPANIES I-XX, ROE CONSTRUCTION COMPANIES I-XX, and DOE MANAGEMENT FIRMS I-XX, were employees of Defendants, and were acting within the course and scope of their employment.

5 74. At all relevant times herein, Defendants were liable for the negligent acts of their
6 agents/employees, Defendants DOES I-XX, ROE CORPORATIONS I-XX, DOE
7 ENGINEERING COMPANIES I-XX, ROE CONSTRUCTION COMPANIES I-XX, and DOE
8 MANAGEMENT FIRMS I-XX, under the doctrine of vicarious liability/respondeat superior.

1 75. At all relevant times herein, Defendants negligently entrusted the design,
2 construction, control, supervision, and repair, to Defendants, DOES I-XX, ROE
3 CORPORATIONS I-XX, DOE ENGINEERING COMPANIES I-XX, ROE CONSTRUCTION
4 COMPANIES I-XX, and DOE MANAGEMENT FIRMS I-XX, who thereafter failed to
5 properly perform these duties, causing injuries to Plaintiff.

6 76. As a direct and proximate result of the carelessness, recklessness and negligence of
7 Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries,
8 causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

9 77. As a further direct and proximate result of the carelessness, recklessness and
0 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and
1 medical bills, and will incur further medical bills in the future, in an amount that is presently
2 unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
3 become known.

4 78. As a further direct and proximate result of the carelessness, recklessness and
5 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
6 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
7 amend this Complaint to include such sums when the same become known.

8 79. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
9 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
0 reasonable attorney's fees and costs of suit as allowed by law and equity.

SIXTH CAUSE OF ACTION

(Declaratory Relief)

23 80. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

24 81. That a current controversy exists between Plaintiff and the Defendants as to the
25 nature and extent of their relationship and corresponding obligations, duties, and responsibilities
26 toward one another, including Defendants' obligations to comply with the Requirements.

27 | // /

28 | //

1 82. All of the rights and obligations of the parties hereto arose out of what is actually
2 one series of transactions, happenings or events, all of which can be settled and determined in a
3 judgment in this one action.

4 83. That a declaration of rights, duties, responsibilities, and obligations between Plaintiff
5 and the Defendants regarding the Defendants' duties to comply with the Requirements and their
6 duties to Plaintiff are justiciable controversy of adverse legal interests, which is ripe for review and
7 declaration by this Court. Plaintiff requests that the Court declare the nature and extent of the
8 parties' contractual relationship as follows: (a) Defendants were negligent per se in failing to follow
9 the Requirements as determined by Nevada law; (b) Defendants were negligent by failing their duty
10 of care; (c) Defendants unlawfully discriminated and deprived Plaintiff of her civil rights by way of
11 their various violations; and (d) Defendants negligently hired, trained and supervised their
12 employees..

13 84. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
14 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
15 reasonable attorney's fees and costs of suit as allowed by law and equity.

16 WHEREFORE, Plaintiff prays for damages, jointly and severally, as follows:

- 17 a. General damages, past and future, in excess of \$50,000;
- 18 b. Special damages for past medical and other related expenses of not less than
19 \$31,694.05 according to proof at time of trial;
- 20 c. Additional special damages for past and future medical and incidental expense all
21 according to proof at time of trial;
- 22 d. Attorney fees and costs of suit as allowed by law and equity;
- 23 e. For an order enjoining Defendants from unlawful discrimination set forth herein;
- 24 f. For Equitable Relief;
- 25 g. For Declaratory Relief that Defendants have violated the Requirements; and
- 26 h. For such other and further relief as the Court deems just and proper.

27 ///

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OLIPHANT
& OSTER L.L.P.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the personal information of any person as defined in NRS 603A.040.

DATED this 10 day of January, 2019.

FAHRENDORF, VILORIA,
OLIPHANT & OSTER L.L.P.

By: *R. Shawn Oliphant*
R. Shawn Oliphant, Esq.
Nevada Bar No. 6441
Attorneys for Plaintiff

**FAHRENDORF,
VILORIA,
OLPHANT
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FILED
Electronically
CV18-02311
2018-12-07 01:07 32 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7013771 : csulezic

Code: 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

PEGGY ANGELTON

Plaintiff / Petitioner / Joint Petitioner,

Case. No. CV18-02311

vs.

FCPT RESTAURANT PROPERTIES, LLC,

Dept. No. 1

Defendant / Respondent / Joint Petitioner.

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).
The object of this action is: Personal Injury.

1. If you intend to defend this lawsuit, you must do the following within 20 calendar days after service of this summons, exclusive of the day of service:
 - a. File with the Clerk of the Court, whose address is shown below, a formal written answer to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
 - b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 26 day of November, 2018.

Issued on behalf of Plaintiff(s):

Name: R. Shawn Oliphant, Esq.

Address: 327 California Avenue
Reno, NV 89509

Phone Number: 775-284-8888

JACQUELINE BRYANT

CLERK OF THE COURT

By: J. Bryant
Deputy Clerk
Second Judicial District Court
75 Court Street
Reno, Nevada 89501

AFFT
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State Bar No.: 6441
Attorney(s) for: Plaintiff(s)

**SECOND JUDICIAL DISTRICT COURT
WASHOE COUNTY, NEVADA**

Peggy Angleton, an Individual
vs
FCPT Restaurant Properties, LLC; et al.

Plaintiff(s)

Defendant(s).

Case No.: CV18-02311

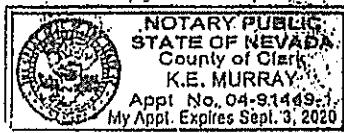
Dept. No.: I

Date:

Time:

AFFIDAVIT OF SERVICE

I, Jennifer Lynn Jones, being duly sworn deposes and says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #604, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received 1 copy(ies) of the: Summons; Complaint, on the 27th day of November, 2018 and served the same on the 28th day of November, 2018 at 9:30 am by serving the Defendant(s), FCPT Restaurant Properties, LLC by personally delivering and leaving a copy at Registered Agent, Corporate Creations Network Inc., 8275 S. Eastern Ave., #200, Las Vegas, NV 89123 with Marcie Wyatt pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the registered agent as shown on the current certificate of designation filed with the Secretary of State.



State of Nevada, County of Clark

SUBSCRIBED AND SWORN to before me on this

28th day of November 2018

K.E. Murray
Notary Public K.E. Murray

Attendant - Jennifer Lynn Jones # R-2018-02711
Legal Process Service License # 604

Legal Process Service License # 604

Legal Process Service License # 004
Mark@adams.com

WorkOrderNo 1807729 1.16

1 **SECOND JUDICIAL DISTRICT COURT**
2 **COUNTY OF WASHOE, STATE OF NEVADA**

3 **AFFIRMATION**
4 **Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document, SUMMONS

7 (Title of Document)

8 filed in case number: CV18-02311

9 Document does not contain the social security number of any person

10 -OR-

11 Document contains the social security number of a person as required by:

13 A specific state or federal law, to wit:

15 (State specific state or federal law)

16 -OR-

17 For the administration for a public program

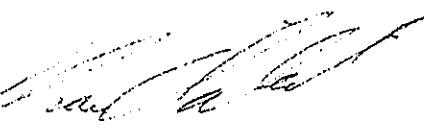
18 -OR-

19 For an application for a federal or state grant

21 -OR-

22 Confidential Family Court Information Sheet
23 (NRS 125.130, NRS 125.230 and NRS 125B.055)

24 DATED this 3rd day of December, 2018.

26 Signature: 

27 Print Name: R. Shawn Oliphant, Esq.

28 Attorney for: Plaintiff

FILED
Electronically
CV18-02311

2018-11-20 04:35:55 PM

Jacqueline Bryant

Clerk of the Court

Transaction # 6987105 : csulezic

1 \$1425
2 R. Shawn Oliphant, Esq.
3 Nevada Bar No. 6441
4 FAHRENDORF, VILORIA,
5 OLIPHANT & OSTER L.L.P.
P.O. Box 62
Reno, Nevada 89504
(775) 284-8888
Attorneys Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

PEGGY ANGLETON, an individual,

Plaintiff,

Case No:

vs.

Dept. No:

FCPT RESTAURANT PROPERTIES, LLC; and
DOES I-XX, ROE CORPORATIONS I-XX, DOE
ENGINEERING COMPANIES I-XX, ROE
CONSTRUCTION COMPANIES I-XX, and DOE
MANAGEMENT FIRMS I-XX, inclusive,

Defendants.

COMPLAINT

[Exempt from arbitration pursuant to
possible award value in excess of \$50,000
and declaratory relief action]

COMES NOW, Plaintiff, PEGGY ANGLETON, by and through her attorneys of record,
FAHRENDORF, VILORIA, OLIPHANT & OSTER, L.L.P., and allege as follows:

I. PARTIES AND JURISDICTION

9 1. Plaintiff is, and at all relevant times herein was, a resident of the County of Washoe,
0 State of Nevada.

2. Plaintiff is a 65 year old female who has a disability in that she has a physical or
3 mental impairment that substantially limits one or more of her major life activities of the person, has
a record of such an impairment or is regarded as having such an impairment.

4 3. Plaintiff is informed and believes, and thereupon alleges, that Defendant, FCPT
5 RESTAURANT PROPERTIES, LLC, is a Foreign Limited Liability Company, licensed in and
6 conducting business in the County of Clark, State of Nevada.

4. Pursuant to NRCP (10)(a) and *Nurenberger Hercules-Werke GMBH v. Virostek*, 107
Nev. 873, 822 P.2d 1100 (1991), the true name and capacities of Defendants designated as DOES 1-

1 10, whether individual, corporate, associate or otherwise are unknown to Plaintiff at this time and,
 2 therefore, Plaintiff sues said Defendants by fictitious names. Plaintiff is informed and believes and
 3 thereon alleges that each of the said DOE Defendants are responsible in some manner for the
 4 events and occurrences referenced herein and that said DOE Defendants are jointly and severally
 5 liable for the injuries and damages suffered by Plaintiff as alleged herein. Plaintiff will ask leave of
 6 the Court to amend her Complaint to substitute the true names and capacities of said DOE
 7 Defendants when Plaintiff becomes aware of the true names of said DOE Defendants.

8 5. Plaintiff is informed and believes, and upon such information and belief, alleges that
 9 each of the Defendants designated herein by such fictitious names are negligently responsible in
 10 some manner for the events and happenings herein referred to and negligently caused the injuries to
 11 Plaintiff as these Defendants were involved in the initiation, approval, support, maintenance or
 12 execution of the construction work and/or wrongful acts on the premises located at 4900 S. Virginia
 13 St., Reno, Nevada 89502 ("Property"), upon which this litigation is based. Plaintiff further alleges
 14 that each Defendant designated herein by such fictitious names are and at all times relevant hereto
 15 were, agents of each other and have ratified the acts of each other Defendant and acted within the
 16 course and scope of such agency and have the right to control the actions of the remaining
 17 Defendants.

18 6. At all times herein mentioned, Defendants, and each of them were the apparent
 19 ostensible principals, principals, apparent ostensible agents, agents, apparent ostensible servants,
 20 servants, apparent ostensible employees, employees, apparent ostensible assistants, assistants,
 21 apparent ostensible consultants and consultants of their co-Defendants, apparent and ostensible
 22 contractors and subcontractors, and were as such acting within the course, scope and authority of
 23 said agency and/or employment, and that each and every act of such Defendants, as aforesaid, when
 24 acting as a principal agent, employee, assistant or consultant, were responsible in some manner for
 25 the events and happenings herein referred to.

26 7. That the facts and circumstances that give rise to the subject lawsuit occurred in
 27 Washoe County, Nevada, at the Property.

28 / / /

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8. Plaintiff is informed and believes, that at all relevant times herein, Defendants owned, leased, or operated a restaurant at the Property known as the Olive Garden ("Restaurant").

II. GENERAL FACTUAL ALLEGATIONS

9. On or about June 27, 2017, Plaintiff placed a to-go order from the Restaurant. After picking up her food, Plaintiff was directed by an employee of the Restaurant to exit out of a side door because the front entry was closed due to remodeling of the building. Plaintiff exited the side door, as directed by Defendants, carrying her food, her purse and her portable oxygen, at which time she tripped off the unmarked vertical ledge outside of the side door of the Restaurant breaking her left foot, bumping her head hard, hitting her elbow, and breaking her glasses on the ground when she landed.

10. After Plaintiff fell and was waiting for an ambulance, employees of Defendants placed "caution tape" and "watch your step" signs around the unmarked vertical ledge where Plaintiff fell.

FIRST CAUSE OF ACTION

(Negligence Per Se)

11. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

12. At all times material hereto, Defendants had a duty to design and construct, or make alterations to the Restaurant that render it readily accessible to and usable by individuals with disabilities in accordance with the Americans with Disability Act ("Act") as determined by the ADA Accessibility Guidelines and Standards for Accessible Design ("Guidelines").

13. The City of Reno and Washoe County have adopted the International Building Code (“Code”).

14. The requirements of the Act, Guidelines and Code are referred to as the "Requirements."

15. The Code incorporates the Requirements and/or the Requirements preempt and supersede the Code.

16. At all times material hereto, Defendants owned, operated, and/or maintained the Property and Restaurant in violation of the Requirements, including without limitation, the

1 following sections of the Guidelines: 303 Changes in Level, 303.1 General; 303.2 Vertical; 3.03.3
2 Beveled; and 303.4 Ramps.

3 17. The Requirements require that the maximum vertical changes in ground surfaces
4 may not exceed $\frac{1}{4}$ inch high. Changes in level between $\frac{1}{4}$ inch and $\frac{1}{2}$ inch high maximum shall be
5 beveled with a slope not steeper than 1:2. In no case may the combined change in level exceed $\frac{1}{2}$
6 inch. Changes in level exceeding $\frac{1}{2}$ inch must be ramped and comply with the curb ramp
7 requirements.

8 18. When Defendants shut down the front entrance to the Restaurant due to
9 construction, and directed Plaintiff to exit the side door, Defendants failed to provide an accessible
10 route which complied with the Requirements.

11 19. In fact, the route Defendants' employees directed Plaintiff to take was a $4\frac{1}{2}$ high
12 unramped and unmarked curb which did not comply with the Requirements.

13 20. A violation of the Requirements resulted in an injury to Plaintiff.

14 21. Plaintiff belongs to the class of persons that the Requirements were intended to
15 protect.

16 22. Plaintiff's injuries were the type of injuries the Requirements were intended to
17 protect against.

18 23. As a direct and proximate result of the carelessness, recklessness and negligence of
19 Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries,
20 causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

21 24. As a further direct and proximate result of the carelessness, recklessness and
22 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and
23 medical bills, and will incur further medical bills in the future, in an amount that is presently
24 unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
25 become known.

26 25. As a further direct and proximate result of the carelessness, recklessness and
27 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
28

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1 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
2 amend this Complaint to include such sums when the same become known.

3 26. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
4 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
5 reasonable attorney's fees and costs of suit as allowed by law and equity.

SECOND CAUSE OF ACTION
(Negligence)

27. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.
28. That Defendants had a duty, by and through its agents, servants and employees to exercise all due care and caution for the safety of persons, including Restaurant customers, such as Plaintiff.

29. That the Defendants had a duty to exercise reasonable care not to subject others on the Restaurant and Property to an unreasonable risk of harm.

30. That the Defendants had a duty to inspect the Restaurant and Property to discover dangerous conditions not known to Plaintiff and to take reasonable precautions to protect customers, such as Plaintiff, from dangers which are foreseeable from the use of the Restaurant and Property.

31. That the Defendants had a duty to maintain safe conditions for customers, such as Plaintiff, entering and existing their Restaurant from the Property.

32. That Defendants had a duty to warn its customers, including Plaintiff, of any dangerous or unsafe condition that existed and/or were present in the Restaurant and Property when such conditions are hidden, latent, or concealed or of which the customers are without knowledge, if Defendants, through one of its employees, agents and/or servants creates or knows of, or in the exercise of reasonable care should have known of the dangerous or unsafe condition.

33. That on or about June 27, 2017, Defendants created and/or allowed a dangerous condition to exist and further negligently, willfully, or maliciously failed to guard, remedy, or warn Restaurant customers, including Plaintiff, against such dangerous condition not providing an accessible route for entry and exit of the Restaurant, which resulted in a hazard on the Property.

1 34. Plaintiff was on the Property of Defendants as a customer for the purposes of
 2 entering the Restaurant to pick up food she had ordered to go.

3 35. As a customer, Plaintiff was on the Property for the express benefit of Defendants.
 4 As a customer, Plaintiff relied on Defendants to keep the Restaurant and Property in a reasonably
 5 safe condition.

6 36. As a customer, Defendants owed a duty to Plaintiff to remedy or warn of risks
 7 known to or discoverable by and/or created by Defendants on the Property.

8 37. That Defendants breached its duties of care owed to Plaintiff and was negligent,
 9 careless and heedless in the operation, maintenance and management of the Restaurant and
 10 Property, including but not limited to, the following acts of negligence:

- 11 (a) Failing to provide a safe restaurant establishment for customers, and
 customers entering and existing Restaurant;
- 12 (b) Failing to warn customers of any dangerous conditions that existed and/or
 were present in the Property;
- 13 (c) Failing to properly hire and train their employees to inspect for dangerous
 and unsafe conditions and to take reasonable precautions to protect
 customers from dangers, which are foreseeable from the use of the Property;
- 14 (d) Failing to exercise reasonable care not to subject customers to an
 unreasonable risk of harm by not providing an accessible route for entry and
 exit of the Restaurant, which caused Plaintiff to fracture her left ankle and
 incur other injuries;
- 15 (e) That the Defendants, by failing to exercise ordinary care, created the
 dangerous condition or created a reasonable probability that the dangerous
 condition would exist; and
- 16 (f) Defendants breached their duties of care owed to Plaintiff by not providing
 an accessible route for access of the Restaurant from the Property, is creating
 an unsafe condition, by failing to warn of the dangerous condition and/or by
 failing to remedy the dangerous condition.

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1 38. At all times material hereto, Defendants knowingly maintained the Property in a
2 dangerous and unsafe condition and knew or in the exercise of reasonable care should have known
3 that it was endangering customers of the Restaurant.

4 39. Defendants' breach of the duty of care legally and proximately caused Plaintiff's
5 injuries.

6 40. In addition to the negligence per se of Defendants, an owner or occupier of land is
7 held to the duty of reasonable care when another is injured on that land.

8 41. Defendants not only failed to provide an accessible route that met the Requirements,
9 but the Defendants did not exercise reasonable care or keep the Property in a reasonable safe
0 condition resulting in Plaintiff's injuries.

11 42. As a direct and proximate result of the carelessness, recklessness and negligence of
12 Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries,
13 causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

43. As a further direct and proximate result of the carelessness, recklessness and
negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and
medical bills, and will incur further medical bills in the future, in an amount that is presently
unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
become known.

19 44. As a further direct and proximate result of the carelessness, recklessness and
20 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
21 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
22 amend this Complaint to include such sums when the same become known.

23 45. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
24 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
25 reasonable attorney's fees and costs of suit as allowed by law and equity.

THIRD CAUSE OF ACTION
(Unlawful Discrimination and Deprivation of Civil Rights)

46 Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

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- 1 47. The Restaurant is a place of public accommodation.
- 2 48. Plaintiff was entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of the Restaurant without discrimination on the ground of her disability.
- 3 49. Defendants deprived Plaintiff from the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of the Restaurant by failing to provide a continuous and unobstructed way of egress from the Restaurant to the path leading away from the Restaurant accessible routes into and from the Restaurant.
- 4 50. Plaintiff was injured as a result of Defendants' failure to provide a continuous and unobstructed way of egress from the Restaurant to the path leading away from the Restaurant.
- 5 51. The failure to comply with the Requirements also constitutes unlawful discrimination under the Act as a result of denial of access to public accommodation by the Defendants to the Plaintiff.
- 6 52. The Requirements require two accessible exists from the Restaurant and Defendants did not provide any accessible exits for the Restaurant during the remodel.
- 7 53. Defendants have failed to remove architectural barriers to persons with disabilities where such removal is readily achievable, including without limitation, providing two accessible exits from the Restaurant.
- 8 54. The Restaurant was altered in 2002, 2006 and 2018 ("Remodels").
- 9 55. Permits to complete the Remodels were pulled from the applicable governing permitting authorities.
- 10 56. The Remodels had a total value of \$350,000 or more.
- 11 57. The Requirements required that the Defendants apply up to 20% of the value of the Remodels on improving the path of travel to and from the area that was altered.
- 12 58. Despite the Remodels, Defendants did not remove the architectural barriers to persons with disabilities by providing two accessible exits from the Restaurant as required by the Requirements.
- 13 59. // /

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1 59. Providing two accessible exits from the Restaurant could have been easily
 2 accomplished without much difficulty or expense given the Defendants' size and abilities.

3 60. The failure to comply with the Requirements is an ongoing violation of the
 4 Requirements.

5 61. The ongoing violations of the Requirements show a pattern or practice of
 6 discrimination by Defendants.

7 62. Defendants are entitled to an order including permanent or temporary injunctions,
 8 restraining orders, or other types of orders including removal of the architectural barriers referenced
 9 herein.

10 63. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
 11 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
 12 reasonable attorney's fees and costs of suit as allowed by law and equity.

FOURTH CAUSE OF ACTION

(Negligent Hiring, Training and Supervision)

15 64. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

16 65. Defendants owed a duty to Plaintiff to exercise reasonable care in the hiring, training
 17 and supervision of its employees.

18 66. Defendants further owed a duty to Plaintiff to properly train them for tasks they
 19 would perform, and to ensure that safety measures were in place to protect its patrons.

20 67. Plaintiff is informed and believes, and on such basis alleges, that said Defendants
 21 breached such duties.

22 68. As a direct and proximate result of the carelessness, recklessness and negligence of
 23 Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries,
 24 causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

25 69. As a further direct and proximate result of the carelessness, recklessness and
 26 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and
 27 medical bills, and will incur further medical bills in the future, in an amount that is presently
 28

1 unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
2 become known.

3 70. As a further direct and proximate result of the carelessness, recklessness and
4 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
5 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
6 amend this Complaint to include such sums when the same become known.

7 Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
8 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
9 reasonable attorney's fees and costs of suit as allowed by law and equity.

FIFTH CAUSE OF ACTION

(Respondeat Superior)

72. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

13 73. At all relevant times herein, Defendants and Employees DOES I-XX, ROE
14 CORPORATIONS I-XX, DOE ENGINEERING COMPANIES I-XX, ROE CONSTRUCTION
15 COMPANIES I-XX, and DOE MANAGEMENT FIRMS I-XX, were employees of Defendants,
16 and were acting within the course and scope of their employment.

17 74. At all relevant times herein, Defendants were liable for the negligent acts of their
18 agents/employees, Defendants DOES I-XX, ROE CORPORATIONS I-XX, DOE
19 ENGINEERING COMPANIES I-XX, ROE CONSTRUCTION COMPANIES I-XX, and DOE
20 MANAGEMENT FIRMS I-XX, under the doctrine of vicarious liability/respondeat superior.

21 75. At all relevant times herein, Defendants negligently entrusted the design,
22 construction, control, supervision, and repair, to Defendants, DOES I-XX, ROE
23 CORPORATIONS I-XX, DOE ENGINEERING COMPANIES I-XX, ROE CONSTRUCTION
24 COMPANIES I-XX, and DOE MANAGEMENT FIRMS I-XX, who thereafter failed to
25 properly perform these duties, causing injuries to Plaintiff.

26 76. As a direct and proximate result of the carelessness, recklessness and negligence of
27 Defendants, each of them, Plaintiffs sustained and continue to sustain severe personal injuries,
28 causing extreme anguish, pain and suffering, all to their general damage in sum in excess of \$50,000.

1 77. As a further direct and proximate result of the carelessness, recklessness and
 2 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred hospital, doctor and
 3 medical bills, and will incur further medical bills in the future, in an amount that is presently
 4 unknown. Plaintiff prays leave to amend this Complaint to include such sums when the same
 5 become known.

6 78. As a further direct and proximate result of the carelessness, recklessness and
 7 negligence of Defendants, each of them, as aforesaid, Plaintiffs have incurred and will incur in the
 8 future, a loss of earnings and earning capacity presently unknown to Plaintiff. Plaintiff prays leave to
 9 amend this Complaint to include such sums when the same become known.

10 79. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
 11 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
 12 reasonable attorney's fees and costs of suit as allowed by law and equity.

SIXTH CAUSE OF ACTION

(Declaratory Relief)

15 80. Plaintiff repeats and incorporates by reference the paragraphs as set forth above.

16 81. That a current controversy exists between Plaintiff and the Defendants as to the
 17 nature and extent of their relationship and corresponding obligations, duties, and responsibilities
 18 toward one another, including Defendants' obligations to comply with the Requirements.

19 82. All of the rights and obligations of the parties hereto arose out of what is actually
 20 one series of transactions, happenings or events, all of which can be settled and determined in a
 21 judgment in this one action.

22 83. That a declaration of rights, duties, responsibilities, and obligations between Plaintiff
 23 and the Defendants regarding the Defendants' duties to comply with the Requirements and their
 24 duties to Plaintiff are justiciable controversy of adverse legal interests, which is ripe for review and
 25 declaration by this Court. Plaintiff requests that the Court declare the nature and extent of the
 26 parties' contractual relationship as follows: (a) Defendants were negligent per se in failing to follow
 27 the Requirements as determined by Nevada law; (b) Defendants were negligent by failing their duty
 28 of care; (c) Defendants unlawfully discriminated and deprived Plaintiff of her civil rights by way of

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1 their various violations; and (d) Defendants negligently hired, trained and supervised their
2 employees..

3 84. Plaintiff has been required to retain the services of FAHRENDORF, VILORIA,
4 OLIPHANT & OSTER L.L.P., to prosecute this action and as a result is entitled to recover
5 reasonable attorney's fees and costs of suit as allowed by law and equity.

6 WHEREFORE, Plaintiff prays for damages, jointly and severally, as follows:

- a. General damages, past and future, in excess of \$50,000;
- b. Special damages for past medical and other related expenses of not less than \$4,050 according to proof at time of trial;
- c. Additional special damages for past and future medical and incidental expense all according to proof at time of trial;
- d. Attorney fees and costs of suit as allowed by law and equity;
- e. For an order enjoining Defendants from unlawful discrimination set forth herein;
- f. For Equitable Relief;
- g. For Declaratory Relief that Defendants have violated the Requirements; and
- h. For such other and further relief as the Court deems just and proper.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the personal information of any person as defined in NRS 603A.040.

DATED this 20 day of November, 2018.

FAHRENDORF, VILORIA,
OLIPHANT & OSTER L.L.P.

By:

R. Shawn Oliphant, Esq.
Nevada Bar No. 6441
Attorneys for Plaintiff